

REMARKS

Applicants amend claim 44 and add new claims 59-61. No new matter has been added with any amendment or remark made in this Response. Applicants respectfully submit that current claims 44-61 are in condition for allowance in light of the amendments and remarks made herein.

In the Final Action mailed April 3, 2006, the Examiner rejected claims 44-47 and 51-54 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,766,305 to Fucarile et al. (hereinafter “Fucarile et al.”) in view of U.S. Patent Application Publication 2002/0087476 to Salas et al. (hereinafter “Salas et al.”). The Examiner also rejected claims 48-50 and 52 under 35 U.S.C. § 103(a) as being unpatentable over Fucarile et al. and further in view of U.S. Patent Application Publication 2004/0078490 to Anderson (hereinafter “Anderson”). Claim 56 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Fucarile et al. and further in view of U.S. Patent Application Publication 2001/0013011 to Daly et al. (hereinafter “Daly et al.”). Claims 55, 57 and 58 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Fucarile et al. and further in view of U.S. Patent Application Publication 2001/0032312 to Runje et al. (hereinafter “Runje et al.”).

Applicants herein amend independent claim 44 to further describe features of Applicants’ invention that are not taught by the references cited by the Examiner. Applicants’ amended claim 44 describes a method of controlling distribution of content in which a license is a separate file from the file containing content selected by a user. In Applicants’ invention, user-selected content is transferred to the user’s network-enabled device, which in one embodiment is the user’s home computer. Separately, a license generator generates a license associated with the selected content and communicates the license to the network-enabled device. Therefore, the

license and the selected content are independently communicated to the network-enabled device by different components.

Independent claim 44 has also been amended to point out that the verifying step in Applicants' method occurs at the time a request to access the selected content is attempted. Furthermore, the claim amendments show that the license can be generated and communicated to the network-enabled device at any time separate from the transfer of selected content. For example, a user may wish to distribute content to another user, or may wish to acquire additional rights without downloading a new copy of selected content, such as for example where the user wants to extend the amount of time available to access the content, or increase the number of times it can be accessed. In another example, a user may select a specified time for transfer of the selected content, but because the license is separately and independently generated and communicated, the license may be communicated prior to the transfer of the selected content. Each of these scenarios is possible with Applicants' invention as in the amended independent claim 44.

None of the references cited by the Examiner teach any of the additional features in Applicants' amended claims. Fucarile et al. teaches a network-based licensing system and method that acts as a clearinghouse for the commercial use of content requiring an explicit license, in which licenses are generated for content to be distributed. In Fucarile et al.'s system and method, a license server is contacted for validation at the time content is selected. (Fucarile et al., col. 3, lines 39-45). Therefore, the licensing system and method of Fucarile et al. does not teach that a license is generated and downloaded at a different time from the time that selected content is transferred to a user's network-enabled device, or that verification of the license occurs regardless of whether the license is generated and communicated before, during, or after

the time at which the selected content is transferred to the network enabled device. Additionally, the license of Fucarile et al. is not independent of the selected content, since selected content will not be transferred unless a licensing server has been contacted and a license validated. Indeed, it is unclear from Fucarile et al. whether a license is downloaded to the user's network enabled device at all.

Similarly, Salas et al. teaches a method and apparatus for controlling access to a product in which a license string is generated substantially at the time a request for a product is received. While Salas et al. does teach that the license string is transmitted to a user, the license string is generated at the time content is selected by the user. The license string and selected content of Salas et al. are therefore not generated and transferred independent of each other, and the license string cannot be generated and downloaded at a different time from the time that selected content is transferred to a user's network-enabled device, as required by Applicants' amended independent claim 44. Salas et al. also teaches that a user of a product must input the license string into the product in order to gain access. Therefore, when the invention of Salas et al. is used, license verification cannot be completed until the user enters the license string into the product, further showing that the license and the selected content cannot be independent of each other as disclosed in Applicants' independent claims.


Applicants also add new dependent claims 59-61. Because claims 45-61 all depend from amended independent claim 44, Applicants respectfully submit that all pending claims are now in condition for allowance in view of the above remarks.

CONCLUSION

Applicants respectfully submit that the cited references do not teach all of the elements of Applicants' amended independent claim 44 and dependent claims 45-61. In view of the above remarks, it is submitted that this application is now ready for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (213) 896-6897.

Respectfully submitted,

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